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**Internal Revenue Service**

Department of the Treasury  
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CC:INTL  
PLR-164417-05  
Date:  
August 03, 2006

## LEGEND

Taxpayer =

Corp A =

Corp B =

Corp C =

Corp D =

Corp E =

Year One =

Year Two =

Year Three =

Year Four =

Year Five =

CPA Firm =

A

CPA Firm =

B

Country X =

Country Y =

G interest =

H interest =

Dear :

This replies to your representative's letter dated December 19, 2005, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to file the annual certification described in §1.1503-2(g)(2)(vi)(B) for the

hybrid entity separate units as defined in §1.1503-2(c)(4) and tax years listed on Schedule A, which is attached to and made a part of this ruling letter. Additional information was submitted on June 19, 2006. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

During Years One through Four, Taxpayer was the parent corporation of a consolidated group, and owned directly a G interest in Corps A, B, C, and D, and through Corp D, an H interest in Corp E. Corps A, B, C, D, and E are partnerships as a result of entity classification elections made under Treas. Reg. §301.7701-3(c). Therefore, they each were a hybrid entity separate unit in Years One through Four. Taxpayer included losses of these hybrid entity separate units in its consolidated federal income returns for Years One through Four. Accordingly, those losses were dual consolidated losses (DCLs) as defined in §1.1503-2(c)(5).

Taxpayer engaged CPA Firm A to provide tax compliance services with respect to Taxpayer's consolidated federal income tax returns for Years One through Four. The partner in CPA Firm A who was assigned to this engagement and a CPA Firm A team under his supervision prepared the tax returns in conjunction with tax personnel of Taxpayer, who provided supporting tax return information and schedules. Taxpayer engaged CPA Firm B to prepare Taxpayer's tax return for Year Five. The engagement team of CPA Firm B discovered that Taxpayer's Years One through Four annual certifications required under Treas. Reg. §1.1503-2(g)(2)(vi)(B) were not filed. The facts and affidavit submitted indicate that the partner in CPA Firm A and the CPA Firm A engagement team did not question the omission of the annual certifications from the tax returns as they did not realize that the entities constituted hybrid entity separate units that were subject to the annual certification filing requirements of the regulations.

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the annual certifications described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) for the hybrid entity separate units and tax years set forth on Schedule A. Treas. Reg. §301.9100-3(b)(1)(i).

Taxpayer represents that the income tax laws of Country X do not deny the use of losses, expenses, or deductions of Corp B to offset income of another person because Corp B is also subject to income taxation by another country on their respective worldwide income or on a residence basis.

Taxpayer represents that the income tax laws of Country Y do not deny the use of losses, expenses, or deductions of Corp D and Corp E to offset income of another person because Corp D and Corp E are also subject to income taxation by another country on their respective worldwide income or on a residence basis.

Treas. Reg. §301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in §301.9100-3, to make a regulatory election under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

Treas. Reg. §301.9100-1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. §301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides evidence (including affidavits described in §301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith within the meaning of §301.9100-3(b), subject to the conditions set forth in §301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of §301.9100-3(c).

In the present situation, the annual certification described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) is a regulatory election as defined in §301.9100-1(b). Therefore, the Commissioner has discretionary authority under §301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards for relief as set forth in §301.9100-3.

Based on the facts and representations submitted, we conclude that Taxpayer satisfies the standards for relief as set forth in Treas. Reg. §301.9100-3. Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file the annual certification described in §1.1503-2(g)(2)(vi)(B) for the hybrid entity separate units and tax years listed on Schedule A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the annual certifications. Treas. Reg. §301.9100-1(a). For example, a taxpayer that is subject to mirror legislation enacted by a foreign country may be ineligible to file election agreements pursuant to §1.1503-2(c)(15)(iv).

In Years Two through Four, Taxpayer timely filed elections and agreements under Treas. Reg. §1.1503-2(g)(2)(i) for certain hybrid entity separate units. However, the amounts of the DCLs reported on the election agreements were incorrect. In addition, in Year Five, Taxpayer timely filed annual certifications as required under

§1.15032(g)(2)(vu)(B) for Corps A, B, and E. However, the amounts of the DCLs reported on the annual certifications were incorrect. Taxpayer requests relief to file new elections and agreements and annual certifications in order to report the correct amounts of the DCLs. The purpose of §301.9100-1 is to grant relief where appropriate to file late elections. Even though the election agreements and the annual certifications reported DCLs in amounts that were erroneous, these statements, nevertheless, were timely filed. Thus relief under §301.9100-1 does not apply with respect to those errors. However, Taxpayer may attach new election agreements and annual certifications to amended returns to report the correct amounts of the DCLs.

A copy of this ruling letter should be associated with the annual certifications.

This ruling is directed only to Taxpayer, who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to your first listed authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of the Associate Chief Counsel (International)

Enclosures (2):

Schedule A

Copy for 6110 purposes

Cc:

## SCHEDULE A

ENTITY NAME	RELIEF REQUESTED
	Year One
Corp A	Certification of the DCL
Corp B	Certification of the DCL
Corp C	Certification of the DCL
Corp E	Certification of the DCL
	Year Two
Corp A	Certifications of the and DCLs
Corp B	Certifications of the and DCLs
Corp C	Certifications of the and DCLs
Corp E	Certifications of the and DCLs
Corp D	Certification of the DCL
	Year Three
Corp A	Certifications of the , and DCLs
Corp B	Certifications of the , and DCLs
Corp C	Certifications of the , and DCLs
Corp E	Certifications of the , and DCLs
Corp D	Certification of the DCL
	Year Four
Corp A	Certifications of the , , and DCLs
Corp B	Certifications of the , , and DCLs
Corp C	Certifications of the , , and DCLs
Corp E	Certifications of the , , and DCLs
Corp D	Certification of the DCL